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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

John Melnik,

Plaintiff,

vs.

James Dzurenda, et al.,

Defendants.

Case No. 3:16-cv-00670-MMD-VPC

ORDER
**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO FILE
REPORT OF 90-DAY STAY
(SECOND REQUEST)**

Defendants, Stacy Barret, Jay Barth, James Dzurenda, Dwight Neven, Jason Satterly and Anthony Warren, by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Erin L. Albright, Deputy Attorney General, hereby move this Court for an enlargement of time for Defendants to file their ninety (90) day stay report. This motion is made pursuant to FED. R. CIV. P. 6(b)(1)(A) and is based upon the following Memorandum of Points and Authorities and all other papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. NATURE OF MOTION

Defendants hereby move for this enlargement of time to file their Report of 90-Day Stay as the parties are attempting to finalize their settlement negotiations.

II. BRIEF STATEMENT OF THE CASE

This is a prison civil rights action brought by Plaintiff, John Melnik ("Inmate Melnik"), asserting a claim for relief under 42 U.S.C. § 1983, and the Fourteenth Amendment to the U.S. Constitution. (ECF No. 4 at 7). This Court screened Inmate Hill's complaint on October 4, 2017 and placed this matter into a ninety (90) day stay. *Id.* The Office of the Attorney General is to file a report regarding the results of the ninety (90) day stay on January 2, 2018. *Id.* An Early Mediation Conference ("EMC") was held on January 23, 2018 at 2:30 p.m. (ECF No. 7 at 1). During the mediation, Inmate Melnik presented a settlement offer that required Defendants to obtain additional information before responding to the offer. Defendants attempted to obtain the additional information during the mediation but were unable to obtain it. Defendants expressed their inability to respond to Inmate Melnik and advised that they would work to obtain the information so they could either accept his offer or present a counteroffer. Since the parties are working towards a resolution of this matter, Defendants request this Court extend the time to file the 90-Day stay report to February 16, 2018.

III. LEGAL AUTHORITY

Pursuant to Fed. R. Civ. P. 6(b)(1)(A), the court may, for good cause, extend the time in which an act must be done if a request is made before the original time or its extension expires. The proper procedure, when additional time for any purpose is needed, is to present the request for extension of time before the expiration of the time for the brief to be filed. Extensions of time may always be asked for, and usually are granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule.

IV. DISCUSSION

The time to file the ninety (90) day stay report has not expired. Defendants submit that the facts and the argument contained herein constitute good cause to enlarge the time for the filing of the ninety (90) day stay report. The intent of the ninety (90) day stay is to permit the parties an opportunity to discuss settlement and to defer the assessment of the \$350.00 filing fee until the conclusion of those communications. (ECF No. 4 at 7). Here, the EMC was held on January 23, 2018. During the EMC, Inmate Melnik presented Defendants with a settlement offer that they could not respond to because they needed additional information. Defendants attempted to obtain the information during the EMC but

1 were unable to do so. Therefore, Defendants request this Court enlarge the time to file the ninety (90)
2 day stay report to February 16, 2018 to allow the parties to finalize settlement negotiations.


3 **V. CONCLUSION**

4 Based on the foregoing, Defendants respectfully request this Court grant their Motion for Extension
5 of Time to File Report of the Ninety (90) day Stay and enlarge the time to file the report to February 16,
6 2018 to allow the parties to finalize settlement negotiations.

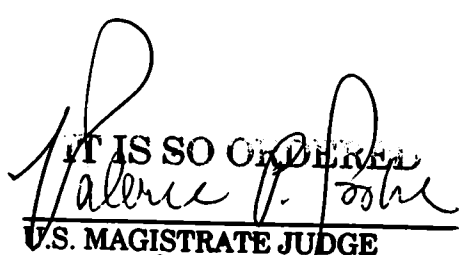
7 DATED this 24th day of January, 2018.

8 ADAM PAUL LAXALT
9 Attorney General

10 By:


11 ERIN L. ALBRIGHT
12 Deputy Attorney General
13 State of Nevada
14 Bureau of Litigation
15 Public Safety Division

16 *Attorneys for Defendant*

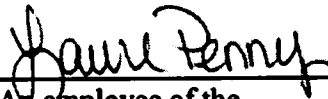
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18 IT IS SO ORDERED
19 U.S. MAGISTRATE JUDGE

20 DATED: January 26, 2018
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 24th day of January, 2018, I caused to be deposited for mailing in the U.S. Mail a copy of the foregoing, **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO FILE REPORT OF 90-DAY STAY (SECOND REQUEST)**, to the following:

JOHN MELNIK #30576
HIGH DESERT STATE PRISON
P O BOX 650
INDIAN SPRINGS NV 89070


An employee of the
Office of the Attorney General